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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,827	09/22/2000	Paula S. Fried	099488-000002	1694
22204	7590	01/14/2005	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			O'CONNOR, CARY E	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	<b>Application No.</b> 09/667,827	<b>Applicant(s)</b> FRIED ET AL	
	<b>Examiner</b> Cary E. O'Connor	<b>Art Unit</b> 3732	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 15-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>92004</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 1-12, 15-25 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 17, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gersberg (5,195,892) in view of Kwan (5,338,197). Gersberg shows a dental implant 1 comprising an elongated body 1A having a longitudinal axis and an axial hole 7. The body terminates in a proximal surface 9 generally transverse to the longitudinal axis. A recess extends into the proximal surface and has a transverse face including an

opening that communicates with the axial hole and generally axial extended side surfaces. The implant includes a plurality of slots 8 penetrating the proximal surface and axially extending at least part way down the side surfaces toward the transverse face. The implant of Gersberg does not have an enlarged end that terminates in the proximal surface. Kwan discloses that it is known to make the top portion of dental implants enlarged with a flange in order to accommodate an artificial tooth (column 1, lines 34-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the top portion of the body of Gersberg with an enlarged flange terminating in the proximal surface, in view of Kwan, so that the proximal surface can accommodate a larger artificial tooth, if required. As to claim 19, note that the elongated body of Gersberg includes screw threads 3. As to claim 20, note that the recess is substantially cylindrical (see Fig. 1).

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krauser (5,316,476) in view of Gersberg (5,195,892). Krauser shows a dental implant 74 comprising an elongated body 76 having a longitudinal axis and an axial hole 68 and an enlarged end 18 terminating in a proximal surface 66 generally transverse to the longitudinal axis. A recess 64 extends into the proximal surface and has a transverse face including an opening that communicates with the axial hole and generally axial extended side surfaces. The implant of Krauser does not include a plurality of slots penetrating the proximal surface and axially extending at least part way down the side surfaces toward the transverse face. Gersberg shows a dental implant 1 comprising an elongated body 1A having a longitudinal axis and an axial hole 7. The body terminates

in a proximal surface 9 generally transverse to the longitudinal axis. A recess extends into the proximal surface and has a transverse face including an opening that communicates with the axial hole and generally axial extended side surfaces. The implant includes a plurality of slots 8 penetrating the proximal surface and axially extending at least part way down the side surfaces toward the transverse face. The slots prevent rotation of the artificial tooth with respect to the implant. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the implant of Krauser with a plurality of slots penetrating the proximal surface and axially extending at least part way down the side surfaces toward the transverse face, in view of Gersberg, in order to prevent rotation of the artificial tooth with respect to the implant. As to claim 18, Figure 8 shows that the recess includes a bevel.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 571-272-4715. The examiner can normally be reached on M-Th 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cary E. O'Connor  
Primary Examiner  
Art Unit 3732

ceo  
January 8, 2005